

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 20123187
Issue No: 3015
Case No: [REDACTED]
Hearing Date: November 9, 2011
St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: **Suzanne D. Sonneborn**

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on September 28, 2011. After due notice, a telephone hearing was held on November 9, 2011. Claimant and Claimant's spouse personally appeared and provided testimony.

ISSUE

Whether the department properly determined Claimant's Food Assistance Program (FAP) eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was receiving FAP benefits in the amount of [REDACTED] per month at all times pertinent to this hearing.
2. In September 2011, the department recalculated Claimant's monthly FAP benefit amount due to a change in department policy effective October 1, 2011 that reduced the heat and utility standard deduction from [REDACTED] to [REDACTED]. (Department Exhibits 1-6)
3. On September 20, 2011, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that effective October 1, 2011, her FAP benefits would be decreased to [REDACTED] per month due to a department policy reduction in the heat and utility standard effective October 1, 2011. (Department Hearing Summary)

4. On September 25, 2011, Claimant submitted a hearing request protesting the department's calculation of her monthly FAP benefits.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

In this case, Claimant and her spouse receive monthly unearned income in the amount of [REDACTED]. The standard deduction of [REDACTED] was subtracted from Claimant's countable income leaving an adjusted gross income of [REDACTED]. An excess shelter deduction of [REDACTED] was subtracted from Claimant's adjusted gross income leaving a monthly net income of [REDACTED].

Claimant's excess shelter deduction of [REDACTED] was determined by adding Claimant's monthly housing expenses to the [REDACTED] heat and utility standard amount

(per RFT 255, effective October 1, 2011) and subtracting half of Claimant's adjusted gross income. Claimant's monthly housing expense is [REDACTED] which, when added to the [REDACTED] standard heat and utility amount, resulted in a total housing expense of [REDACTED]. Half of Claimant's adjusted gross income ([REDACTED]) was then subtracted from Claimant's housing and utilities ([REDACTED]) for an adjusted excess shelter amount of [REDACTED]. Since Claimant does not meet the senior/disabled/veteran criteria, the department may only deduct the non-SDV shelter maximum amount of [REDACTED] from Claimant's adjusted gross income. BEM 556.

Federal regulations at 7 CF 273.10 provide standards for income and the amount of household benefits. In accordance with the federal regulations, the department has prepared income and issuance tables which can be found at RFT 260. This issuance table provides that a household size of four with net income of [REDACTED] is entitled to a [REDACTED] FAP allotment. Therefore, the department's FAP eligibility determination was correct.

This Administrative Law Judge finds that the department properly determined Claimant's FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined Claimant's FAP eligibility.

Accordingly, the department's decision is **UPHELD**.

It is SO ORDERED.

/s/ _____
Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: November 10, 2011

Date Mailed: November 14, 2011

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

SDS/cr

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